

United States Senate

WASHINGTON, DC 20510

January 16, 2006

The Honorable Mark Everson
Commissioner, Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Dear Commissioner Everson:

I write to respectfully urge you to reconsider the instructions of Internal Revenue Service (IRS) Notice 2005-79, issued on November 14, 2005, and stop collection of the communications excise tax from telephone service providers for telephone services for which the rate varies by the time of the call, but not by the distance the call travels. Customers who have been paying the tax deserve an immediate refund.

Despite the holdings of several federal appeals courts that the excise tax does not apply to calls with a time-based rate, the IRS continues to require that the phone companies collect the tax. This is bad for business and it is bad for consumers. Because the courts must deal with these cases circuit-by-circuit, the result is that customers in Ohio are exempt from the tax while customers in New York are not. We should eliminate this disparity and treat all consumers the same, regardless of the federal circuit in which they live.

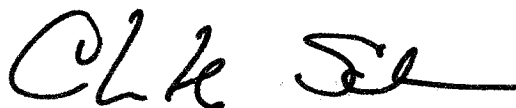
The excise tax on communications was originally imposed in 1898 to help pay for the Spanish American War, and it was later extended to help pay for other national emergencies. When the tax was extended again in 1965 to cover some long distance calls, there was only one long distance provider and no one imagined the kind of competitive market we have today, with cell phones, Internet phone service and multiple long distance providers. That is why courts addressing the issue have repeatedly held the tax does not apply to calls for which the rate varies by the time of the call.

Some legislators and telephone service providers are trying to repeal the entire excise tax. That may eventually happen, and will be to the benefit of both customers and providers. In the meantime, the IRS should bring its practices in line with the court rulings.

Therefore, I request that the IRS issue a formal letter to telephone service providers instructing them to immediately stop collection of the tax on calls for which the rate varies by the time of the call. I also urge you to begin to refund customers for taxes paid over the last three years. The telephone service providers should notify their customers as to how much tax they have paid over the past three years, and then the customers should apply directly to the federal government to receive their refunds. We must also do everything we can to make the application process as simple and efficient as possible.

Thank you for your consideration of this important matter to American businesses and consumers. I look forward to your prompt reply.

Sincerely,

A handwritten signature in black ink, appearing to read "C Schumer". The signature is fluid and cursive, with the first part "C" being large and the last name "Schumer" written in a more compact, cursive style.

Charles E. Schumer
United States Senator